

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

RUSSELL T. CAMPBELL

PLAINTIFF

v.

CIVIL ACTION NO. 2:10cv90-KS-MTP

**CAPTAIN CHIQUIDA BROWN, OFC. LATOYA POLK,
OFC. ASHLEY ROBERTSON, LT. VIADAN BREWER,
OFC. UNKNOWN DEE, OFC. UNKNOWN DICESON,
RONNIE LAMPLEY, NINA ENLERS, CAPTAIN
UNKNOWN LAMPLEY AND CAPT. UNKNOWN ENLERS**

DEFENDANTS

REPORT AND RECOMMENDATION

THIS MATTER is before the Court *sua sponte* for consideration of dismissal of certain defendants pursuant to Fed. R. Civ. P. 4 and upon Plaintiff's failure to comply with certain orders of the court.

The Court entered an [35] Omnibus Order on December 14, 2010 pursuant to a hearing held on December 8. That order outlined unsuccessful attempts to obtain service of process on Defendants Ashley Roberts (identified as Ashley Robertson) and Brandon Dykes (identified as Unknown Diceson). The order further directed Plaintiff to provide to the Court the current addresses for defendants Roberts and Dykes within thirty (30) days of the date of the order, and advised him that failure to do so would result in the dismissal of said defendants. That deadline has passed, and Plaintiff has not provided the Court with the addresses of the unserved defendants.

RECOMMENDATION

It is recommended that Defendants Ashley Roberts (identified as Robertson) and Brandon Dykes (identified as Diceson) be dismissed from this cause of action without prejudice pursuant to Fed. R. Civ. P. 4(m) and for Plaintiff's failure to comply with the Court's [35] order.

NOTICE OF RIGHT TO OBJECT

In accordance with the rules, any party within fourteen (14) days after being served a copy of this recommendation, may serve and file written objections to the recommendations, with a copy to the judge, the magistrate judge, and the opposing party. The District Judge at the time may accept, reject, or modify in whole or in part the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to this Court with instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court to which the party has not objected. 28 U.S.C. § 636(b)(1); *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).¹

THIS the 24th day of August, 2011.

s/Michael T. Parker
United States Magistrate Judge

¹*Douglass* referred to the previously applicable ten-day period for the filing of objections. Effective December 1, 2009, 28 U.S.C. § 636(b)(1) was amended to extend that period to fourteen days.